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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED

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In the Matter of)

Local Exchange Carriers' Rates,
Terms, and Conditions for Expanded
Interconnection Through Virtual
Collocation for Special Access
and Switched Transport)

CC Docket No. 94-97,
Phase II

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BELL ATLANTIC'S REBUTTAL

The collocators are struggling to find arguments to oppose Bell Atlantic's virtual collocation tariffs. While they apparently feel compelled to file, examination of their comments and oppositions shows that they either fail to address Bell Atlantic's Direct Case¹ at all, or they raise extraneous issues that are inappropriate in a tariff proceeding. The Commission should find Bell Atlantic's tariff fully justified and close this proceeding.

The most egregious example is Teleport's filing.² Teleport does not even attempt to address any issues whatsoever. Instead, Teleport blithely asks the Commission to find the tariffs unreasonable. The Commission should not tolerate such abuse of process.

The other oppositions and comments are only marginally more responsive to the issues. For the most part, however, they ignore Bell Atlantic's extensive cost showing and,

¹ Bell Atlantic's Direct Case (filed Oct. 19, 1995) ("Direct Case").

² Teleport Communications Group Inc., Comments on Direct Cases.

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instead, repeat the same unfounded arguments they made on the original tariff filings. The Commission should summarily deny their redundant and unsupported oppositions.

MCI, for example, asserts that Bell Atlantic's proposed DS1 collocation rates are excessive and anticompetitive."³ MCI's only "justification" for that broad claim is that the rates filed by Bell Atlantic are higher than those of a few other local exchange carriers ("LECs").⁴ MCI makes no attempt to address the vast amount of cost support for those rates which Bell Atlantic submitted in the Direct Case. The relative rate levels were known before the Commission began this investigation and are not at issue, and MCI's comparison adds no value to aid the Commission's deliberations. On the other hand, neither MCI nor any other commenter attempts to refute the detailed cost support in Bell Atlantic's Direct Case. The Commission should likewise find that the cost support fully justifies the rates.

MCI also argues that Bell Atlantic is double-recovering land and building costs, because they are being recovered both in overheads and in direct assignments.⁵ MCI's allegation has no validity in the case of Bell Atlantic. Bell Atlantic recovers land and building costs associated with collocater-designated equipment in the same manner as it recovers such costs in connection with its own equipment -- through application of land and buildings factors to the equipment investment. The difference is that, for collocation, there is no investment in collocater-designated equipment, so Bell Atlantic applies the loading factor to surrogate investment. This

³ MCI Opposition to Direct Cases ("MCI") at 10-11.

⁴ *Id.*

⁵ *Id.* at 13-15.

surrogate investment is based upon the price of comparable equipment. As a result, there is no double-counting, as MCI alleges, and no discrimination in land and buildings cost recovery between access and collocation services.⁶

MCI also asks the Commission to impose even more reporting requirements than it has already. It wants reports of the number of cross-connects in service, and separate quality of service reports.⁷ This issue is outside the scope of this proceeding, which is an investigation into certain specified issues relating to the tariff. MCI should have requested additional reports in the context of the collocation rulemaking, CC Docket No. 91-141.

Finally, MCI and several other commenters ask the Commission to require the tariffing of installation, maintenance, and repair intervals.⁸ In its Direct Case, Bell Atlantic pointed out that the Bell Atlantic makes best efforts to meet the collocators' own installation needs and repair response requirements, and these vary widely.⁹ Requested installation intervals have varied between 15 and 364 days, based upon factors beyond Bell Atlantic's control such as the projected delivery dates of collocator-designated equipment.¹⁰ Repair intervals for the service

⁶ Time Warner recognizes that this approach, when applied to power, yields comparable charges for access and collocation services. Time Warner Communications Holdings, Inc., Comments on Direct Cases ("Time Warner") at 33-34.

⁷ MCI at 23-24.

⁸ *Id.* at 22-23, MFS Communications Company, Inc. ("MFS") Opposition To Direct Cases at 23-24, Time Warner at 53-54.

⁹ Direct Case at 13.

¹⁰ Bell Atlantic attempts to have the site ready to receive the equipment within sixty days. The date the service can be initiated depends upon such factors as delivery of the equipment, availability of the collocator's fiber optic cable in the manhole, and the collocator's readiness to initiate service at its own premises.

as a whole are based upon the standard intervals for the particular service (*i.e.*, DS1 or DS3). These intervals are applicable to access and end user services as well. The interval for repairs to collocator-designated equipment depends upon whether the collocator wants Bell Atlantic to repair the equipment immediately or to allow the collocator to diagnose and attempt a repair remotely. As a result, Bell Atlantic could not provide tariffed installation, maintenance and repair intervals that would meet collocators' widely-divergent requirements.

MFS's principal claim is that collocation rates should reflect those for comparable DS1 and DS3 access services.¹¹ When Bell Atlantic filed term pricing plans for collocation that precisely tracked the comparable access tariffs,¹² however, MFS petitioned to reject.¹³ Then, when Bell Atlantic asked the Commission to revise the overhead loadings to track the current factors in the comparable access tariffs,¹⁴ MFS again objected.¹⁵ The record clearly shows that Bell Atlantic is trying to provide the very term and volume plans that MFS claims to want, yet

¹¹ MFS at 2-6.

¹² Transmittal No. 784 (filed June 1, 1995).

¹³ That proposed tariff also contained the same non-recurring charges as the access tariffs. MFS, having opposed the tariff that essentially cloned the effective access tariff rates, now argues that the Commission should prescribe those access rate levels. MFS at 8-11. Bell Atlantic will reinstate the filed rate levels once the Commission allows us to use overload loading factors that are no lower than those in the comparable access tariffs.

¹⁴ Motion to Vacate Prescription (filed Sept. 18, 1995) ("Motion").

¹⁵ MFS is also being disingenuous when it claims that Bell Atlantic withdrew Transmittal 784 because we were unwilling to offer volume pricing arrangements. MFS at 8. MFS is well aware that Bell Atlantic has stated on the record its intention to offer such arrangements once it is permitted to use overhead loadings that are no lower than those used for comparable access services. *See, e.g.*, Motion at 3, Bell Atlantic's Reply to Oppositions at 1, 3 and n.8 (filed Oct. 10, 1995).

MFS objects each time Bell Atlantic files anything containing the word “collocation.” It is apparent that MFS, like the other commenters, has less interest in obtaining collocation services than in disrupting the regulatory process.

Another clear example of MFS’s reflex opposition is its claim that Bell Atlantic used an excessive cost of money factor.¹⁶ MFS first argues strenuously that the collocation tariffs should track the comparable access tariffs in all relevant respects.¹⁷ When faced with Bell Atlantic’s showing that it adhered to that principle by using the same cost of money factor for collocation as it used for access,¹⁸ MFS still could not stop itself from objecting. Therefore, it found an unrelated tariff filing and claims that Bell Atlantic should have used the cost of money factor from that filing, not from the comparable access tariff,¹⁹ thus violating the very principle it so vehemently espouses. Such tactics should not be tolerated.

Equally outrageous is MFS’s suggestion that Bell Atlantic should install riser cable and conduit in anticipation of future collocation demand.²⁰ It claims that this will in some way allow Bell Atlantic to charge for that installation as part of recurring costs instead of up-front charges.²¹ Unlike access services, however, each collocation cable is installed to the order of a

¹⁶ MFS at 19.

¹⁷ *Id.* at 2-6.

¹⁸ Direct Case at 6-7.

¹⁹ MFS at 19.

²⁰ *Id.* at 10.

²¹ *Id.* at 19-20.

specific collocator, based upon a specific request.²² It would be irresponsible of Bell Atlantic to incur the investment in dedicated collocation facilities in advance of any request for service. Instead, Bell Atlantic reasonably fills orders for collocation services as they are received and, appropriately, charges collocators -- the cost-causers -- for the actual up-front cost of giving them their unique dedicated service. MFS's proposal, of course, shifts all the risk to Bell Atlantic and allows the collocators to walk away from their commitments at little cost.

ALTS appears to want the Commission to require the LECs to show the direct costs of comparable access and collocation rate elements.²³ In all the collocation tariff filings, including the Direct Case, Bell Atlantic has shown that collocation rate elements were derived in the same manner as those for comparable access elements. Accordingly, ALTS' objections have been met.

²² Entrance cables installed for access are also used interchangeably for a host of other Bell Atlantic services. Therefore, unlike collocation facilities that are dedicated to a single customer, these are fungible installations from which Bell Atlantic can be reasonably confident of obtaining a regular recurring revenue stream.

²³ Response to Phase II Direct Cases by the Association for Local Telecommunications Services ("ALTS").


Bell Atlantic's Direct Case, together with the initial tariff filing, provide full and complete justification of the collocation filing. None of the comments even attempts to show otherwise. Accordingly, the Commission should find the tariff just and reasonable.

Respectfully Submitted,

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Companies**

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Bell Atlantic's Rebuttal" was served this 22nd day of November, 1995 by first class mail, postage prepaid, on the parties on the attached list.

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